



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
P. O. Box 1736  
Romney, WV 26757

Joe Manchin III  
Governor

March 3, 2005

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\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 23, 2005. Your hearing request was based on the Department of Health and Human Resources' action to close your Food Stamp case effective December 2004.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Food Stamp Program is based on current policy and regulations. Some of these regulations state as follows: An Able- Bodied Adult must meet work requirements to be eligible and penalty is imposed when the individual does not comply with work requirements, (Policy § 9.1 & 13.6). The information which was submitted at the hearing revealed that you had failed to comply with Food Stamp Work Requirements and the Agency was applying a sanction to your case for this failure to comply.

It is the decision of the State Hearing Officer to uphold the action of the Agency to apply the Sanction which would close your one person household Food Stamp case.

Sincerely,

Sharon K. Yoho  
State Hearing Officer  
Member, State Board of Review

CC: Chairman, Board of Review  
DHHR, Paul Denchy

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

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\_\_\_\_\_  
**March 3, 2005**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 23, 2005 for \_\_\_\_\_. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on February 23, 2005 on a timely appeal filed December 24, 2004.

It should be noted here that benefits under the Food Stamp Program have not been continued due to the late receipt of the Hearing Request.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE:**

The program entitled **Food Stamps** is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nation's abundance of food to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households. This is accomplished through the issuance of food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
Paul Denchy, Agency Representative  
Presiding at the hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED**

The question to be decided is whether the Agency was correct in their action to close a one person Food Stamp case due to the non compliance with Work Requirements.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 9.1; 13.2; 13.5; 13.6 and 25.1  
7 CFR § 273.10 - Code of Federal Regulations.

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## **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

Exhibit -D1 Notice of appointment to enroll in the FSE&T program, dated November 8, 2004  
 Exhibit -D2 Notice of Food Stamp Closure, dated November 17, 2004  
 Exhibit -D3 West Virginia Income Maintenance Manual §13.6

## **VII. FINDINGS OF FACT CONCLUSIONS OF LAW:**

1. Mr. \_\_\_\_\_ was certified for Food Stamps on November 4, 2005 in the \_\_\_\_\_ County DHHR office. At the time of his Food Stamp application, he was made aware that he would be scheduled for an appointment to register with the Food Stamp Employment & Training (FSE&T) program. He was also made aware that he would have to enter into some type of Work activity as a requirement of receiving Food Stamps.
2. On November 8, 2004, the FSE&T worker sent an appointment letter to the claimant's home. His appointment to register with FSE&T was set for November 16, 2004. This notice advised Mr. \_\_\_\_\_ that if he was unable to attend on this date, he must call to reschedule the appointment. The notice also advised that his benefits may stop if he does not comply.
3. Mr. \_\_\_\_\_ did not show up for his appointment on the 16<sup>th</sup> of November nor did he call to reschedule the appointment.
4. The Agency was advised of the claimant's failure to keep the appointment. This prompted the proposed closure of the one person household Food Stamp case. A notice of proposed closure was sent on November 17, 2004. This notice advised that if he did not agree with the decision to close the case that he could receive continued benefits pending a hearing decision if the request for a hearing was received within 13 days of the date of the letter.
5. Mr. \_\_\_\_\_ had left his residence soon after his November 4th application for Food Stamps. He resided in \_\_\_\_\_ County with his Grandparents until December 6, 2004 during which time he did not have anyone checking his mail.
6. When Mr. \_\_\_\_\_ returned to his home on December 6, 2004 he opened both of the above mentioned letters and became aware that he had missed his FSE&T appointment and that his Food Stamp case had been closed. He contacted the FSE&T worker and made an appointment to register with the program on the next day. He did register for the program on December 7, 2004.
7. The claimant testified that he believes that since he responded to the letters as soon as he got back to his home, that he should not be penalized. He admitted that he was told at the Food Stamp application, that he would be scheduled for an appointment to register with the FSE&T program. He stated that the reason he was out of the county was to help out his elderly grandparents.
8. **West Virginia Income Maintenance Manual § 9.1:**  
 An individual who meets the definition of an ABAWD can only receive AG benefits when he is otherwise eligible and:
  - Is meeting the work requirements; or
  - Is residing in a Non-Issuance Limited County; or
  - Regains eligibility after meeting the ABAWD work requirement, becoming exempt, or moving to a Non-Issuance Limited County; or
  - Is in the first or second 3-month limit period while not meeting the work

requirement or being exempt.

Definition of ABAWD – An Able-Bodied Adult Without Dependents. An ABAWD is any individual age 18 or

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## **VII. Section Continued:**

or over, but not yet age 50.

ABAWD Work Requirement – An ABAWD must meet work requirements to be eligible. All work hours must be verified, including in-kind services and unpaid work.

### **9. West Virginia Income Maintenance Manual § 13.2:**

Food Stamp Work Requirements for Non-WV Works Recipients - Cooperation with FSE&T. Failure to cooperate after referral to Work Program, results in application of a penalty for failure to meet the work requirement.

### **10. West Virginia Income Maintenance Manual § 13.5:**

All individuals must register with BEP for employment at time of the original application, unless referred to FSE&T. If the client agrees to be referred to FSE&T the registration requirement is met by this agreement.

### **11. West Virginia Income Maintenance Manual § 13.6:**

A Food Stamp penalty is imposed when the individuals do not comply with a work requirement.

First violation: The individual is removed from the AG for a minimum of 3 months.

Second violation: The individual is removed from the AG for a minimum of 3 months.

Third violation: The individual is removed from the AG and is not eligible for Food Stamps, either as a Separate AG or as a member of another AG, unless he reports a change that makes him exempt.

### **12. West Virginia Income Maintenance Manual § 25.1:**

The intent of the FSE&T Program is to insure that ABAWD Food Stamp recipients are involved in meaningful work related activities which will eventually lead to paid employment and decrease dependency on assistance programs. The emphasis of the program is to serve Able Bodied Adults without Dependents who are not otherwise exempt. In the areas of operations, these individuals must participate or they become ineligible for food stamps, if not otherwise exempt.

## **VIII. DECISION:**

Policy is clear that Mr. \_\_\_\_\_ is an Able Bodied Adult Without Dependents (ABAWD), and is not eligible to receive food stamp benefits if he is not meeting the work requirements. He was aware that he was going to be scheduled to register with the FSE&T program and at least actively seek employment.

Mr. \_\_\_\_\_'s choice to leave his residence and reside in \_\_\_\_\_ county for an extended period of time, without having someone check his mail, was not a responsible decision. The Food Stamp program for Able Bodied Adults without Dependents is a limited program and there are strict work activity requirements. The goal of the Agency is to provide services which will assist the ABAWD food stamp recipient in becoming less dependent on assistance programs. This goal can only be reached with the active participation of the ABAWD participant. Policy is clear that a penalty of at least three months must be applied when the participant does not cooperate with the work requirements of the food stamp program. The claimant left the area for an extended period of time without consideration given to knowledge he had regarding a pending appointment to register with the FSE&T program.

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency's action to apply a penalty which would close Mr. \_\_\_\_\_'s Food Stamp case. The claimant clearly did not comply with requirements set forth for ABAWD food stamp recipients.

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**IX. RIGHT OF APPEAL**

See Attachment

**X. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29